

## **REMARKS**

Applicants appreciate the Examiner's thorough consideration provided in the present application. Claims 1-20 are currently pending in the instant application. None of the claims have been amended. Claims 1 and 15 are independent. Reconsideration of the present application is earnestly solicited.

### **Reasons for Entry of Amendment**

As discussed in greater detail hereinafter, Applicants respectfully submit that the rejections under 35 U.S.C. § 103(a) are improper and should immediately be withdrawn. Accordingly, the finality of the Final Office Action mailed on February 26, 2003 should be withdrawn.

If the Examiner persists in maintaining his rejections, Applicants submit that this Amendment was not presented at an earlier date in view of the fact that Applicants are responding to new grounds of rejection in a Final Office Action.

As identified by Applicants in the response filed on June 26, 2003, Applicants respectfully submit that the subject matter erroneously relied upon by the Examiner as "Prior Art" does not qualify as prior art under 35 U.S.C. § 102(a) or § 102(b). Accordingly, the subject matter of FIGs. 1-5 relied upon by the Examiner as Applicants Admitted Prior Art may not be relied upon by the Examiner as prior art, and the rejection under 35 U.S.C. § 103(a) and based upon Applicants' own specification should be withdrawn.

### **Drawings**

The drawings have been objected to by the Examiner. Specifically, the Examiner has requested that FIGs. 1 to 5 should be designated by a legend such as --PRIOR ART--. This objection is respectfully traversed. Applicants have refiled the Drawing Change Approval Request (DCAR) concurrently herewith that addresses the Examiner's requested changes. This DCAR was improperly disapproved by the Examiner on February 26, 2003 and it is not clear if these drawings were approved with the response filed on June 26, 2003. Accordingly, the DCAR has been resubmitted concurrently herewith.

Without conceding the propriety of the Examiner's objection, but merely to timely advance the prosecution of the present application, FIGs. 1-5 have been amended to include the legend "Background Art." Applicants cannot amend FIGs. 1-5 to include the legend "Prior Art" as requested by the Examiner, since Applicants have not admitted that the subject matter of these drawings qualifies under 35 U.S.C. § 102.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "Conventional Art Valve" shown in Figures 1-5 (Applicants own patent application) in view of Gruett et al. (U.S. Patent No. 5,984,652). This rejection is respectfully traversed.

Applicants respectfully submit that these rejections have been obviated and/or rendered moot. Applicants submit that the subject matter of Figures 1-5 does not qualify as prior art under 35 U.S.C. § 102(a) or § 102(b). The Examiner has not established that Figures 1-5 qualify as prior art under 35 U.S.C. § 102. Accordingly, this rejection is improper. Further, Applicants have already submitted all prior art available to them with the Information Disclosure Statements filed on January 28, 2002, January 24, 2003 and January 26, 2003 (all considered and initialed by the Examiner).

In addition, the subject matter of Figures 1-5 and the supporting description of these Figures includes Applicants' own identification and analysis of problems associated with the structure of the background art. Therefore, it would be improper for the Examiner to rely upon Applicants' own analysis as a basis for modifying the structure of background art with the Gruett et al. patent as alleged by the Examiner. Without the benefit of Applicants' own teachings, one of ordinary skill in the art would not have even recognized the existence of any problems associated with the structure of the background art that would require or benefit from the alleged modification. Accordingly, this rejection should be withdrawn.

Since the Examiner is merely relying upon Applicants' own teachings, one of ordinary skill in the art would not have modified the structure of the background art as suggested by the Examiner without the benefit of Applicants' own disclosure. Further, the Gruett et al. patent fails to identify any art recognized

problems with the structure of the background art that would benefit from the alleged modification. Further, the prior art of record fails to teach or suggest winding a spring coil 2.3 times as in the claimed invention of claim 19. As discussed on pages 10-11 of the specification, the particular winding of the spring in the claimed invention aids in producing an equally applied elastic force and prevents instability of the valve during operation. Therefore, even if the structure of the background art qualified as prior art, the Examiner has failed to identify an art recognized problem in the prior art of record that is overcome by the alleged modification by Gruett et al. Accordingly, this rejection is improper.

With respect to the Examiner's comments on pages 3-4 of the Office Action, the Examiner's characterization of Applicants' invention is improper. For example, pages 10-11 describes several of the advantages of the claimed invention particularly relating to the winding of the spring 2 or more times, including 2.3 times. Therefore, the advantages ignored by the Examiner on pages 10-11 of the specification specifically contradict the Examiner's statement in the record that the claimed invention lacks "an advantage, is used for a particular purpose or solves a stated problem." Accordingly, these comments by the Examiner are respectfully traversed.

As to the dependent claims, Applicants respectfully submit that these claims are allowable due to their dependence upon an allowable independent claim, as well as for additional limitations provided by these claims.

## CONCLUSION

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but rather to merely show the state-of-the-art, no further comments are necessary with respect thereto.

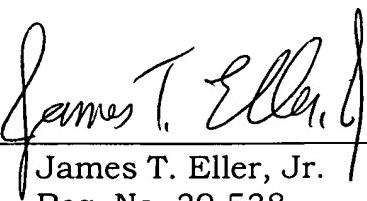
Applicants respectfully petition under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a two-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of **\$300.00** is attached hereto with the Notice of Appeal.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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